



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. MCTIGUE
DIRECTOR

February 2, 1990
AO-90-04

Philip W. Johnston
Secretary
Executive Office of Human Services
One Ashburton Place, Room 1109
Boston, MA 02108

Dear Mr. Johnston:

This letter is in response to your request for an advisory opinion regarding any limitations to which you may be subject generally under M.G.L. c.55 in your capacity as policy advisor to a gubernatorial candidate. You have inquired specifically whether your name may appear in any written endorsements of the candidate.

Section 13 of M.G.L. c.55 states, in pertinent part:

No person employed for compensation, other than an elected officer, by the commonwealth . . . shall directly or indirectly solicit or receive any gift, payment, contribution, assessment, subscription or promise of money or other thing of value for the political campaign purposes of any candidate for public office or of any political committee, or for any political purpose whatever . . .

As an employee of the commonwealth, you may not directly or indirectly solicit or receive anything of value for a political purpose, including on behalf of a gubernatorial candidate. This prohibition would include soliciting contributions in person or in writing, acting as treasurer of a political committee or allowing your name to be listed on a fundraising invitation. Additionally, this office would consider a fundraising event at which you were to be the featured speaker to be an indirect solicitation on your part.

The prohibition against direct or indirect solicitation or receipt of contributions for a political purpose does not extend to endorsements of a candidate, provided, however,

such endorsements are not coupled with a solicitation for contributions, e.g. an advertisement comprised of one or more endorsements which also includes a form to be completed and returned with a contribution to the candidate.

We would also caution you against making such endorsements using government resources. M.G.L. c.55 governs the regulation of campaign finance activity in Massachusetts, which includes the use of government resources for political purposes. The Supreme Judicial Court in Anderson vs. City of Boston (376 Mass. 178, 1978) stated that M.G.L. c.55 was "intended to reach all political fundraising and expenditures within the Commonwealth If the Legislature had expected that [governmental entities] would engage in such activities or intended that they could, M.G.L. c.55 would have regulated those activities as well."

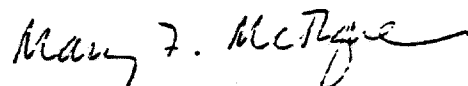
Section 22A of M.G.L. c.55 prescribes a reporting procedure for expenditure of funds by a governmental entity to influence or affect the vote on a question submitted to the voters. The statute does not describe a similar procedure for reporting governmental expenditures for the purpose of nominating or electing a candidate and, as the Court stated in Anderson, because such expenditure is not expressly permitted, it is prohibited.

Any use of governmental resources which might be used in your capacity as a policy advisor to a gubernatorial candidate would be prohibited under M.G.L. c.55 as a governmental contribution for the purpose of nominating or electing a candidate. Such use would include telephone calls from your office, using your office for meetings related to the gubernatorial candidate's campaign, or assigning your staff tasks associated with the campaign.

This opinion has been rendered solely on the basis of the representations made in your letter and solely in the context of M.G.L. c.55.

Please do not hesitate to contact this office should you have any additional questions.

Very truly yours,



Mary F. McTigue
Director